

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sara Asselman	Team: Squad #16	CCRB Case #: 202208252	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/01/2022 11:33 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 6/1/2024	Precinct: 101		
Date/Time CV Reported Fri, 12/02/2022 9:53 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 12/02/2022 9:53 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Christopher Ghee	16192	944591	101 PCT
2. PO Brian Weber	00900	961440	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Osvaldo Nunez	02580	965374	101 PCT
2. DTS Jacqueline Demerest	01110	966537	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Christopher Ghee	Abuse: Police Officer Christopher Ghee entered § 87(2)(b)	§ 87(2)(b)
B . PO Christopher Ghee	Abuse: Police Officer Christopher Ghee searched § 87(2)(b)	§ 87(2)(b)
C . PO Brian Weber	Abuse: Police Officer Brian Weber threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint on December 2, 2022, at CCRB via telephone.

On December 1, 2022, at approximately 11:33pm, PO Christopher Ghee, PO Brian Weber, PO Jacqueline Demerest, and PO Osvaldo Nunez, all from the 101st Precinct, responded to a 911 call about a dispute at § 87(2)(b) in Queens. While § 87(2)(b) showed PO Weber an electrical switch panel located in his garage, PO Ghee entered and searched a separate room beyond the garage (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). PO Weber told § 87(2)(b) “If you don’t supply those utilities, you could be arrested for that” (**Allegation C: Abuse of Authority, § 87(2)(g)**).

This incident did not result in any summonses or arrests.

The CCRB obtained body-worn camera (BWC) footage of this incident (Board Review 01).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Christopher Ghee entered § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Christopher Ghee searched § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Brian Weber threatened to arrest § 87(2)(b)

§ 87(2)(b) heard banging on his apartment door, § 87(2)(b) located at § 87(2)(b) in Queens. When he opened the door, PO Weber asked him about the lack of electricity and heat in the first-floor apartment, which § 87(2)(b) owns and rents to a tenant, § 87(2)(b). § 87(2)(b) told PO Weber that the program that covers § 87(2)(b) rental costs, CityFHEPS, was responsible for making and covering the costs of the repairs. PO Weber asked to see the electrical switch panel to ensure that § 87(2)(b) apartment had electricity. § 87(2)(b) walked the four officers into the garage and showed the panel to PO Weber and PO Ghee. PO Ghee pushed open a door that was inside the garage and entered a separate room where the boiler was located. § 87(2)(b) asked PO Ghee what he was doing, and PO Ghee left the garage. § 87(2)(b) did not give permission to PO Ghee to enter this separate room. PO Weber then told § 87(2)(b) that if he did not fix the heat, he would arrest him. He added, “When we come back here and put you in handcuffs, we’ll see how you’re going to feel.”

BWC footage recorded by PO Ghee depicts the entirety of this encounter (Board Review 01). At 10:15, PO Ghee asks § 87(2)(b) if the heat in his own apartment is on. § 87(2)(b) says, “I don’t have no heat. If the boiler is out, it’s the same. I purchased space heaters.” At 12:00, PO Ghee says, “Alright, how do we get to the breaker?” § 87(2)(b) says, “My breaker is downstairs. I really don’t want to have to do that, you guys are supposed to get a permit, but I’m going to go downstairs and show you.” PO Ghee says, “Alright, show us where the breaker is.” At 13:55, § 87(2)(b), PO Ghee, and PO Weber exit the residence and walk to the left, to a garage door. They all walk through the garage door where § 87(2)(b) shows PO Weber and PO Ghee an electrical panel located on the right side of the garage. PO Ghee walks a few steps and enters a room through a fully open door on his left. In the room are several miscellaneous objects strewn about, including building materials and broken furniture. In an area left of the door, a portion of the ground is dug up and plumbing pipes are exposed. § 87(2)(b) is out of frame, but he is heard saying, “You see I had to dig here? Because they flooded the bathroom, they put stuff in the pipes on purpose.” PO Ghee says, “Well, I mean, how do you know it’s on purpose?” PO Ghee then walks right, further into the room, where there is a boiler. He flashes his light on the boiler and other pipes connected to

it. At 15:30, § 87(2)(b) re-enters the room and shows PO Ghee the damage he believed was done by § 87(2)(b). He also shows him an appliance and tells him that it is brand new. At 15:47, § 87(2)(b) says, “You’re not even supposed to be here. You understand?” PO Ghee and § 87(2)(b) leave the room and then the garage. In total, PO Ghee spends approximately one minute and thirty-five seconds inside the room in the garage. § 87(2)(b) addresses him directly on two separate occasions before saying, “You’re not even supposed to be here.”

In PO Weber’s BWC footage, at 6:34, § 87(2)(b) says, “There is no heat...Because the boiler is flooded.” (Board Review 01) At 10:28, PO Ghee says, “She said the breaker needs to be reset. Where is the breaker?” § 87(2)(b) points left in the direction of the garage and tells him that it is down the stairs. PO Ghee asks him how to get there. § 87(2)(b) told PO Weber that § 87(2)(b) knowingly tripped the breaker. At 11:20, § 87(2)(b) tells him and PO Ghee that a space heater she plugged into the wall tripped the breaker twice. At 14:17, § 87(2)(b) shows PO Weber an electrical switch panel. § 87(2)(b) is not heard asking any officers to leave the area. At 18:55, PO Weber says to § 87(2)(b) “Your responsibility as a landlord is to provide all those utilities to that person [...] if you don’t supply them with those utilities, you could be arrested for that. Do you understand?”

PO Ghee did not have a recollection of entering a separate room through the garage (Board Review 03). Once he reviewed his BWC, he saw that he did walk through an open door. He did not think the room in the garage represented a separate area of the garage from where the electrical switch panel was located. He did not intend to enter any area of § 87(2)(b) residence without his permission. § 87(2)(b) did not explicitly tell him to leave the area. He specifically went to the area to look at the boiler that § 87(2)(b) claimed was broken and resulted in the lack of heat in the dwelling.

NYC Administrative Code 27-2028 states that “every multiple dwelling and every tenant-occupied one or two-family dwelling shall be provided with heat from a central heating system constructed in accordance with the provisions of the building code and the regulations of the department.” (Board Review 04).

NYC Administrative Code 27-2029 states that “During the period from October first through May thirty-first, all central heating systems required under this article shall be maintained free of any device which shall cause, or which is capable of causing an otherwise operable central heating system to become incapable of providing the minimum requirements of heat or hot water.” (Board Review 05).

In People v. Lewis, 94 A.D.2d 44, a case involving the arrest of an individual after his cousin invited officers inside, the Appellate Division ruled that consent to a warrantless entry and search was limited, based on the consenter’s statements, and the officer’s reason for entering and searching certain premises. In this case, the consenter said, “Step inside,” and the officers asserted that they were looking for a person. The Court ruled that the statement and purpose were insufficient and did not justify officers searching a backroom (Board Review 06).

§ 87(2)(b) agreed to show PO Ghee the electrical box after he asked, “Where is the breaker?” When § 87(2)(b) escorted PO Ghee and PO Weber to the garage and showed them the breaker in question, he did not consent to the officers entering and searching any additional areas of the house. PO Ghee’s request was specifically to see the electrical box, which was located in the garage area, separated from the back of the basement by a door. PO Ghee did not ask to see the boiler and § 87(2)(b) did not invite him to do so. § 87(2)(g)

§ 87(2)(g)

It is undisputed that § 87(2)(b) apartment did not have adequate heating on the date of this incident. By failing to provide heating to his tenant, § 87(2)(b) was in violation of the above-cited NYC Administrative Codes. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Brian Weber has been a member of service for seven years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- PO Christopher Ghee has been a member of service for fifteen years and has been a subject in twelve CCRB complaints and twenty-three allegations, of which one was substantiated:
 - 202104241 involved a substantiated allegation of Abuse of Authority against PO Ghee. The Board recommended Command Discipline B and the NYPD imposed no penalty.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of March 8, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 07).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: _____ Squad #4

Investigator:	<u>Sara Asselman</u>	<u>Inv. Sara Asselman</u>	<u>10/19/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>10/19/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date